

ENTERED

January 24, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

ANDREW WILLEY

Plaintiff.

VS.

HON. JACK EWING

Defendant.

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CIVIL ACTION NO. 3:18–CV–00081

**ORDER ADOPTING MAGISTRATE JUDGE’S MEMORANDUM AND
RECOMMENDATION**

Pending before the Court is the Memorandum and Recommendation of United States Magistrate Judge Andrew Edison. Dkt. 26. On October 31, 2018, Defendant’s Rule 12(b)(1) Motion to Dismiss for Lack of Subject Matter Jurisdiction and Rule 12(b)(6) Motion to Dismiss for Failure to State a Cause of Action (“Defendant’s Motion to Dismiss”) was referred to Judge Edison pursuant to 28 U.S.C. § 636. Dkt. 23.

On December 31, 2018, Defendant filed his Objections (Dkt. 27). On January 14, 2019, Plaintiff responded to Defendant’s objections. (Dkt. 29). In accordance with 28 U.S.C. § 636(b)(1), this Court is required to “make a de novo determination of those portions of the [magistrate judge’s] report or specified proposed findings or recommendations to which objection [has been] made.” After conducting this de novo review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.*; *see also* Fed. R. Civ. P. 72(b)(3).

Based on the pleadings, the record and the applicable law, the Court **ACCEPTS** Judge Edison's Memorandum and Recommendation and **ADOPTS** it as the opinion of the Court. It is therefore **ORDERED** that

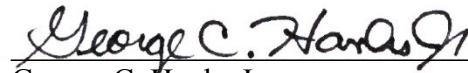
(1) Defendant's Objections (Dkt. 27) are **OVERRULED**;

(2) Judge Edison's Memorandum and Recommendation is **APPROVED AND ADOPTED** in its entirety as the holding of the Court; and

(3) Defendant's Motion to Dismiss (Dkt. 14) is **GRANTED in part and DENIED in part**. Specifically, Willey's claims for injunctive relief and attorney's fees under 42 U.S.C. § 1988 are **DISMISSED**. Defendant's Motion to Dismiss is **DENIED in all other respects**.

It is so **ORDERED**.

SIGNED at Galveston, Texas, this 24th day of January, 2019.

A handwritten signature in cursive script, reading "George C. Hanks Jr.", written over a horizontal line.

George C. Hanks Jr.
United States District Judge